

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 DANIEL JERIMIAH SIMMS,

11 Plaintiff,

v.

12 STEPHEN SINCLAIR, et al.,

13 Defendants.

CASE NO. C19-5323RBL-JRC

ORDER

14 THIS MATTER is before the Court on Plaintiff Simms' (63 page) Objections [Dkt. # 34]
15 to the Magistrate Judge's Order [Dkt. # 32], ruling on several non-dispositive issues. Magistrate
16 Judge Creatura GRANTED Simms' Motion to Amend his Complaint and ordered him to
17 properly do so by October 8. Judge Creatura held that amendment would make Simms' Motion
18 to Correct Misjoinder moot, and thus DENIED Simms' misjoinder motion. Judge Creatura
19 DENIED Simms' motion for sanctions against defense counsel because he failed to follow the
20 required Rule 11 procedure (and noting that he is not a pro se "fist timer," based on prior *pro se*
21 habeas filings.) *See* Dkt. # 32.

22 Simms objects to this ruling, arguing that though he has been in court *pro se* as a
23 Petitioner, this is in fact his first experience as a *pro se plaintiff*. He complains that the
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1 Magistrate Judge failed to rule on his Motion to Strike portions of defendants' answer (based on
2 the same denials that led to his motion for sanctions).

3 A district judge shall "consider timely objections and modify or set aside any part of the
4 order that is clearly erroneous or is contrary to law." Fed. R. Civ. Pro. 72(a).

5 None of Simms' objections meet this standard. A *pro se* litigant (even a first time one)
6 must follow the rules, including especially the procedures for making serious Rule 11
7 accusations. Even if he has provided the required notice, Simms has not established a Rule 11
8 violation as a matter of law. His objections to that portion of the Magistrate Judge's Order are
9 OVERRULED and those portions of the Order are AFFIRMED.

10 Nor has Simms established that the Motion to Strike should have been granted. Motions
11 to strike are generally disfavored, and should only be granted if the matters lack any possible
12 relevance to the disputed issues. *In re UTStarcom, Inc. Sec. Litig.*, 617 F. Supp. 2d 964, 969 (N.
13 D. Cal. 2009). The allegations in the answer may or may not ultimately be accurate, but they are
14 far from scandalous or immaterial. Simms' Motion to Strike is DENIED, and any objection to
15 the Magistrate Judge's ruling on this point are OVERRULED.

16 The Magistrate Judge's Order is AFFIRMED in all respects, including the deadline for
17 proper amendment.

18 IT IS SO ORDERED.

19 Dated this 23rd day of September, 2019.

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Ronald B. Leighton

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22 Ronald B. Leighton
United States District Judge
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